REMARKS/ARGUMENTS

The rejections presented in the Office action dated August 10, 2005 have been considered. Claims 1-45 are pending in the application. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 1-16, 18-27, 29-41, and 43-45 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,085,976 issued to *Sehr* (hereinafter "*Sehr*") in view of U.S. Patent No. 5,910,987 issued to *Ginter et al.* (hereinafter *Ginter*). Claims 17 and 42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Sehr* and *Ginter* as applied to claims 1 and 41, and further in view of U.S. Patent No. 6,317,783 to *Freishtat et al.* (hereinafter *Freishtat*). Claim 28 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Sehr* and *Ginter* as applied to claim 27, and in further view of U.S. Patent No. 6,112,085 issued to *Garner et al.* (hereinafter *Garner*).

Applicants have great difficulty in understanding the rationale for Examiner's rejections. "It is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply." MPEP 706.02(j) "The Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *id.* Applicants respectfully assert that the Examiner has not complied with this requirement. In many cases, the Examiner points to large sections of the references as supporting Examiner's assertions with regard to specific claim elements. It is not discernable which specific portions of the reference the Examiner interprets as corresponding to various elements of Applicants' claims, including, for example, "access ticket object," "access information, "transaction request," "ticket identifier," "ticket address," to name a few. In some cases, it appears that the Examiner is using various elements described in the references to correspond to a single element in Applicants' claims.

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Applicants submit that the Examiner has not provided a sufficient analysis to allow an understanding of the basis for the rejections. Therefore, reconsideration and withdrawal of the finality of the rejection is requested.

On page 22 of the Office Action, the Examiner states that Sehr, col. 6, lines 62-67 and col. 9, lines 20-67, "points out the client/server approach of his invention and it would have been obvious for an ordinary skill in the art to use a download server in a client/server environment to retrieve ticket information. The Examiner also states that at 223, lines 4-65 "Ginter also discloses a Server (downloadable) that can deliver all or a portion of the requested object (ticket information)"

Applicants object to Examiner's characterization and suggest that this is an inappropriate attempt to distill Applicants' invention. Distilling an invention down to the "gist" or "thrust" of an invention disregards the requirement of analyzing the subject matter "as a whole." *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984) In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983).

Applicants respectfully assert that the Examiner has mischaracterized various elements of the invention. A detailed analysis is provided below 1) to explain the discrepancies between Examiner's characterization and the invention, and 2) to set forth areas where the Examiner's analysis is unclear.

The Examiner contends that col. 19, lines 3-33 of *Sehr* teaches the first element of Applicants' claims 1 and 34, "receiving a content download request from the network service, wherein the content download request includes access information."

Col. 19, lines 3-33 of *Sehr* describes "the retrieving of data from or the loading of data into the passenger card." In this section, *Sehr* does not describe *receiving a content download request* from a network service. This section says nothing about a content download *request*, or any other kind of *request*. The section describes general operations of reading or writing information to or from the passenger card. The section says that

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read/write refers to retrieving data or loading data and send/receive refers to uploading data or downloading data.

Further, *Sehr* does not describe receiving a download request *from a network service*. In order for *Sehr* to teach this claim element, the request must be received *from* the network service. The referenced section describes reading information from and writing information to the passenger card, but does not describe any request received *from a network service*.

The section goes on to describe encryption and security of the data. The only use of the word "access" is found at lines 13-17, where *Sehr* states "Encrypt/decrypt means refer to the compilation and employment of security keys to be attached to the communicated or stored information. Such keys can also be incorporated into a particular access code." The referenced section describes reading data from and writing information to the passenger card from a remote database. *Sehr* states "the encrypt/decrypt means refer to the compilation of security keys to be <u>attached to the communicated or stored information</u>." Therefore, *Sehr* appears to teach security keys that are attached to the communicated information. *Sehr* does not teach that the security key for the information is *included in a download request.*

Applicants assert that *Sehr* does not teach element 1 of claims 1 and 34 because *Sehr* does not teach a *download request*, does not teach a download request *from a network service*, and also does not teach that the *access information is included in the download request*.

The Examiner contends that Fig. 3 and col. 23, lines 20-67 of *Sehr* teaches the second element of Applicants' claims 1 and 34 and the first element of claim 33 which recite in some form creating an access ticket object based on the access information, wherein the access ticket object comprises a plurality of ticket fields to store a plurality of access parameters parsed from the access information.

Figure 3 of *Sehr* "illustrates the functional structure, including the electronic card template, of the multi-application passenger card which facilitates the card's computerized means for compiling the card contents and for communicating data and information

between and among the remote databases including the portable passenger card." (col. 13, lines 39-48)

For the sake of argument, Applicants construe the Examiner's analysis to interpret *Sehr's* template of the passenger card illustrated in Figure 3 as being analogous to Applicants' **access ticket object.**

Col 23, lines 20-67 of *Sehr* describes identifying the passenger at the passenger station such as the airport, bus terminal, etc.(lines 20-41) and determining the validity of the ticket stored in the passenger card (lines 42-67).

Col 23, lines 20-67 does not describe creation of the passenger card template illustrated in Figure 3 which the Examiner has interpreted as corresponding to Applicants' access ticket object. The section describes "tickets" that are stored in the passenger card (lines 41-50). The template illustrated in Figure 3 does not represents "the tickets" which are stored in the passenger card. The ticket and the passenger card described by *Sehr* are different entities, thus it is inappropriate for the Examiner to characterize Applicants' access ticket object by selectively applying *Sehr*'s teaching with respect to the "passenger card" and *Sehr*'s teachings with respect to the "tickets."

Further, *Sehr* does not describe creating the access ticket object **based on access information included in the download request.** For the sake of argument, Applicants construe Examiner's analysis to interpret the security key taught by *Sehr* to correspond to Applicants' access information because the Examiner referenced col. 19, lines 19, lines 3-33 as teaching access information. Applicants assert that Sehr does not teach that the passenger card of Fig. 3 (which Examiner sometimes interprets as corresponding to Applicants' access ticket object) is created "based on" the security key. Thus, Examiner's line of reasoning fails.

Continuing with the analysis of claim 1, element 2, *Sehr* also does not describe the second portion of element 2: "**wherein the access ticket object comprises a plurality of ticket fields to store a plurality of access parameters parsed from the access information.**"

The Examiner previously interprets *Sehr*'s security key to correspond to Applicants' access information. Applicants assert that *Sehr* does not teach ticket fields to store access parameters parsed from access information that is included in a content download request.

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For example, *Sehr* does not teach parsing the security key or storing access parameters parsed from the security key into ticket fields.

Applicants assert that *Sehr* does not teach element 2 of claim 1 because, among other things, there is no teaching in *Sehr* of a download request; no teaching as to the creation of a ticket object based on access information, no teaching of any parsing functionality, no teaching that parsed parameters of the access information are stored in ticket fields.

The Examiner contends that col. 11, lines 63-67 and col. 12, lines 1-52 of *Sehr* teach the third element of Applicants' claims 1 and 34 and the second element of claim 33 which recite in some form retrieving, from a download server, the access ticket object associated with a transaction request using a ticket identifier accompanying the transaction request.

Col. 11. lines 63-67 and col. 12, lines 1-52 of *Sehr* describe a passenger station having a card slot where the passenger card can be "inserted and retrieved." For the sake of argument, Applicants construe the Examiner's analysis to interpret *Sehr*'s process of physically retrieving the passenger card from the card slot to be analogous with "retrieving, from a download server, the access ticket object" as recited in Applicants' claims 1, 33, and 34.

Applicants respectfully suggest that *Sehr*'s process of <u>physically</u> inserting and retrieving the passenger card from the Passenger Station is not analogous to Applicants' process of retrieving the access ticket object from a download server. For example, the (physical) retrieval of the passenger card taught by *Sehr* does not teach retrieval *"using a ticket identifier,"* as recited in Applicants' claims, 1, 33, and 34. The function of physically retrieving the passenger card taught in *Sehr* is unrelated to any ticket identifier. In further contrast, *Sehr* does not describe a *transaction request* or teach that the passenger card *is associated with a transaction request*. In further contrast, *Sehr* does not describe or suggest that the *ticket identifier accompanies the transaction request*.

The Examiner contends that col. 20, lines 15-46 of *Sehr* teaches the fourth element of Applicants' claims 1 and 34 and the third element of claim 33 which recite in some form authorizing a content download based on the access parameters of the retrieved access ticket object.

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At col. 20, lines 15-46, *Sehr* describes "verifying the identity of the cardholder and authenticating the [passenger] card." (lines 10-11) "If the verification process is successful, the cardholder is authorized to retrieve, manipulate, or store card data." (lines 35-37) For the sake of argument, Applicants construe Examiner's analysis to interpret authorization to retrieve, manipulate, or store card data as described in *Sehr* to be analogous to "authorizing a content download" as set forth in element 4 of Applicants' claim 1.

In contrast to Examiner's interpretation, col. 20, lines 15-46 do not describe authorizing a content download *based on the access parameters of the retrieved access ticket object.* In Applicants' claim 1, access parameters are parsed from access information that is included in a download request. The section that Examiner has pointed to in *Sehr* as teaching access information teaches a security key. *Sehr* does not teach parsing access parameters from the security key. *Sehr* does not teach *authorizing* a content download based on the security key or any parameters of the security key. *Sehr* teaches encryption/decryption functions based on the security key, but the security key is not used to *authorize content downloads*.

The Examiner contends that col. 222, lines 30-61 of *Ginter* teaches the fifth element of Applicants' claims 1, 33, and the fourth element of claim 34, which recite in some form delivering the content to a user terminal identified by the access ticket object if the content download is authorized.

Ginter describes methods and systems for management of secure transactions and protection of electronic rights. *Ginter* teaches various methods of accessing content, but does not describe or suggest <u>ticket-based access</u> to content. The passage referenced by the Examiner does not support the Examiner's assertion because *Ginter* does not contemplate the use of an *access ticket object* and does not teach or suggest delivering the content to a user terminal *identified by the access ticket object*.

Applicants assert that the *Sehr-Ginter* combination does not teach or suggest all of the claim limitations of Applicants' claims 1, 33, and 34, as is necessary to meet the third requirement of *prima facie* obviousness. Regarding the first requirement of *prima facie* obviousness, the asserted references do not provide a suggestion or motivation to modify the reference or to combine reference teachings. It is a requirement that actual evidence of a

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suggestion, teaching or motivation to combine prior art references be shown, and that this evidence be "clear and particular." In re Dembiczak, 50 USPQ2d 1614 (Fed. Cir. 1999). Broad conclusory statements regarding the teaching of references, standing alone, are not evidence. Id.

The Examiner points to col. 3, lines 37-40 of *Sehr* as supplying the requisite motivation to combine the teachings of the references. At col. 3, lines 37-40, *Sehr* states "The invention further includes a method for using a cryptographic scheme to authenticate the cardholder or system information and to guarantee a secure information exchange." The mere mention of cryptography in *Sehr* does not lead one skilled in the art to devise a system that uses access tickets stored and retrieved from a download server to control access to content.

Further, Applicants assert that the statement by *Ginter* at col. 1 lines 23-26, referenced by the Examiner, does not provide the requisite motivation to combine the reference teachings. In the referenced section, *Ginter* states: "The invention also relates to systems and methods for protecting rights of various participants in electronic commerce and other electronic or electronically-facilitated transactions." This general statement does not suggest to a person skilled in the art a system that provides ticket-based access to content including an access ticket object stored in and retrieved from a download server and used to authorize a content download.

Regarding the second requirement of *prima facie* obviousness, there is no reasonable expectation that a combination of *Sehr* and *Ginter* would provide a successful rendition of Applicants' invention.

Because *Sehr* and *Ginter*, alone or in combination, fail to teach or suggest several of the above-identified limitations, and because the asserted combination does not provide a sufficient basis to support a reasonable expectation of success or the requisite suggestion or motivation to combine or modify the references in the manner suggested by the Examiner, Applicants respectfully assert that the Examiner has failed to establish *prima facie* obviousness of Applicants' subject matter recited in independent claims 1, 33 and 34.

With regard to Examiner's rejection of claims 19 and 29, the Examiner contends that *Ginter* teaches at col. 113, lines 3-37 and col. 176, lines 29-59, "a service handler

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configured to receive service requests to download content from a network service, to create and store in the storage module a ticket object having access parameters based on information provided in the service request, and to deliver to the network service a corresponding ticket address of the ticket object in the storage module"

Col. 113, lines 3-37 of *Ginter* teaches an interrupt process for a memory management unit. Col 176, lines 29-59 teaches a register method that is used when a user asks "to access an object that has not yet been (or is not now) properly registered to her." *Ginter*, col. 175, lines 10-12. Applicants are at a loss to understand how the Examiner interprets the interrupt process or register method described in *Ginter* as describing creating and storing in a storage module a ticket object having access parameters based on information provided in a service request and delivering to the network service a corresponding ticket address of the ticket object in the storage module as recited in claims 19 and 29.

The Examiner contends that col. 232, lines 5-38 teach a transaction handler configured to receive download transaction requests identifying the ticket address. This section of *Ginter* describes a portable auxiliary terminal. Applicants are at a loss to understand how the Examiner interprets col. 232, lines 5-38 as teaching a transaction handler of a download server that receives download requests identifying a ticket address.

The Examiner contends that *Sehr* col. 20, lines 15-46 teaches to retrieve the ticket object from the storage module based on the ticket address and authorize a download transaction based on the access parameters of the ticket object. Applicants assert that any authorization process described in the referenced section of *Sehr* does not include authorization based on access parameters of the ticket object.

The Examiner contends that col. 222, lines 30-39 of *Sehr* teaches "to deliver the content to a user terminal identified by the ticket object upon authorization of the download transaction." Applicants assume the Examiner means col. 222 lines 30-39 of *Ginter* teach this element of claim 19 because *Sehr* does not have 222 columns. This section of *Ginter* teaches how non-VDE computers can be integrated into a VDE environment without modification. The section does not describe delivering content identified by a ticket object as in Applicants' claims 19 and 29.

Applicants submit that a *prima facie* case of obviousness has not been established with respect to claims 19 and 29 because the *Sehr-Ginter* combination does not teach all the claim elements. Applicants reassert previously made arguments with respect to the lack of a sufficient basis to support a reasonable expectation of success or the requisite motivation to combine these references.

With regard to Examiner's rejection of claim 35, the Examiner contends that *Ginter* teaches at col. 231, lines 6-48 "creating an access ticket based on user access information provided by the network service."

Col. 231, lines 6-48 of *Ginter* describes auxiliary terminals that are menu or icon driven providing templates used to "guide that user through specifying useful or required transaction specific information (for example, purpose for a business dinner and/or who attended the dinner.)" Applicants are at a loss to understand the Examiner's analysis regarding how this section of *Ginter* teaches creating an access ticket based on user access information provided by the network service as recited in claim 35.

Examiner contends that at col. 15, lines 10-67, *Sehr* teaches "notifying the terminal of a ticket address corresponding to a stored location of the access ticket."

This section of *Sehr* describes the selection transport service of the passenger card that "allows the card user . . . to choose a particular transportation carrier." *Sehr* describes a ticket stored in the card that can be identified by a unique ticket number. For the sake of argument, Applicants construe the Examiner's analysis to interpret the unique ticket number taught by *Sehr* as corresponding to a ticket address. *Sehr* does not teach notifying the terminal of a ticket address corresponding to a stored location of the access ticket. It is unclear from Examiner's analysis what entity would be notifying the terminal. The referenced section of *Sehr* describes interaction between the passenger card and a transportation carrier. However, there is no description of the transportation carrier notifying the terminal of a ticket address that corresponds to a stored location of the ticket. The ticket referred to in *Sehr* is stored in the passenger card, presumably the passenger card knows where it stored the ticket, and there is no reason for the transportation carrier to notify the passenger card of the ticket address.

Examiner contends that at col. 53, lines 1-29, *Ginter* teaches "creating a transaction upon receipt of a transaction request including the ticket address from the terminal."

The referenced section of *Ginter* teaches a "transaction processor that processes transactions (to transfer electronic funds, for example) based on requests from participants." *Ginter* does not describe a transaction request that includes the ***ticket address from the terminal.***

With regard to Examiner's rejection of claim 41, the Examiner contends that *Ginter* teaches at col. 19, lines 3-33 "receiving a content download request from the network service, wherein the content download request includes access information." This section of *Ginter* describes "proposed electronic agreements that manage the use and/or the consequences of use of such content and which can enact the terms and conditions of agreements involving multiple parties and their various rights and obligations." This section of *Ginter* is unrelated to receiving download requests from a network service. Applicants do not understand the Examiner's rationale for applying this section to claim 41.

Examiner contends that Fig. 3, col. 23, lines 20-67 of *Ginter* teaches "creating a ticket based on the access information, wherein the ticket comprises a plurality of ticket fields to store a plurality of access parameters parsed from the access information."

Figure 3 of *Ginter* shows "one example of different control information that may be provided." (see *Ginter*, Brief Description of the Drawings). Col 23, lines 20-67 of *Ginter* describes a "support trusted chain of handling capabilities for pathways of distributed electronic information and/or for content usage related information. Such chains may extend, for example, from a content creator, to a distributor, a redistributor, a client user, and then may provide a pathway for securely reporting the same and/or differing usage information to one or more auditors, such as to one or more independent clearinghouses and then back to the content providers, including content creators." Applicants do not understand Examiner's rationale for applying Figure 3 or col. 23, lines 20-67 of *Ginter* to claim 41.

Examiner contends that at col. 15, lines 9-37, *Sehr* teaches "providing a ticket address of the ticket to the service for use by a terminal. This section of *Sehr* describes the selection transport service of the passenger card that "allows the card user . . . to choose a

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particular transportation carrier." *Sehr* describes a ticket stored in the card that can be
identified by a unique ticket number. For the sake of argument, Applicants construe the
Examiner's analysis to interpret the unique ticket number taught by *Sehr* as corresponding
to a ticket address. *Sehr* does not teach providing the ticket address **to the service.** *Sehr*
teaches that tickets are stored in the passenger card and that any operations to the ticket are
performed via the passenger card. *Sehr* states that the ticket identifier is used by the
passenger card to locate the ticket which is stored in the card. *Sehr* does not describe any
process whereby the ticket identifier is **provided to the service** and furthermore it is unclear
how the operation would be meaningful in *Sehr*'s approach.

Examiner contends that at col. 11, lines 63-67 and col. 12, lines 1-52, *Sehr* teaches
"retrieving targeted content identified in the first transaction request." It is unclear what the
Examiner interprets in this section as "targeted content" or a "first transaction request."
Applicants contend that *Sehr* does not teach or suggest these elements of claim 41.

Examiner contends that at col. 5, lines 55-67 and col. 6, lines 1-15, *Sehr* teaches
"receiving subsequent transaction requests including the transaction identifier from the
terminal." It is unclear what the Examiner interprets in this section as "subsequent
transaction requests" or the "transaction identifier." Applicants assert that *Sehr* does not
teach or suggest these elements of claim 41.

Examiner contends that at col. 38, lines 21-67, *Sehr* teaches "retrieving the
transaction identified by the transaction identifier and retrieving targeted content identified
in the subsequent transaction requests." It is unclear what the Examiner interprets in this
section as a "transaction", a "transaction identifier", or "targeted content identified in
subsequent transaction requests." Applicants contend that *Sehr* does not teach or suggest
these elements of claim 41.

Applicants respectfully assert, that with respect to independent claims 1, 19, 29, 33,
34, 35, and 41, the Examiner has not established a *prima facie* case of obviousness and that
these independent claims are patentable over the asserted combination of references.

Claims 2-16,18, 20-27, 30-32, 36-40, 43-45 stand rejected under 35 U.S.C. §103(a)
as being unpatentable over the combination of *Sehr* and *Ginter*. Claims 17 and 42 stand
rejected under 35 U.S.C. §103(a) as being unpatentable over *Sehr* and *Ginter* as applied to

claims 1 and 41, and further in view of U.S. Patent No. 6,317,783 to *Freishtat et al.* (hereinafter "*Freishtat*"). Claim 28 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Sehr* and *Ginter* as applied to claim 27, and in further view of U.S. Patent No. 6,112,085 issued to *Garner et al.* (hereinafter Garner).

Dependent claims 2-18, 20-28, 30-32, 36-40, 42-45 depend from independent Claims 1, 19, 29, or 41. While Applicants do not acquiesce with any particular rejections to these dependent claims, it is believed that these rejections are now moot in view of the remarks made in connection with independent Claims 1, 19, 29, and 41. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from the cited references. If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious." M.P.E.P. §2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent claims 2-18, 20-28, 30-32, 36-40, 42-45 are also allowable over the asserted combinations..
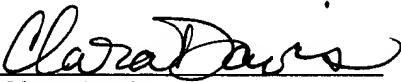
It is to be understood that Applicants do not acquiesce to Examiner's characterization of the asserted art or Applicants' claimed subject matter, nor of the Examiner's application of the asserted art or combinations thereof to Applicants' claimed subject matter. Applicants reserve the right to address in detail the Examiner's characterizations and rejections of the claims in future prosecution.

Applicants believe that the claims are in condition for allowance and request notification to that effect. In the alternative, Applicants request that the Examiner withdraw the finality of the rejections and provide clear and specific reasoning that supports maintaining the rejections.

If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact her at 952.854.2700 to discuss any issues related to this case.

Respectfully submitted,

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